THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.912 OF 2007

DATED 25th JANUARY, 2007

Between

Samudrala Satyanarayana

... Petitioner

AND

The Government of A.P., rep.by its Principal Secretary, Revenue (Endowments-IV) Department, Secretariat Buildings, Hyderabad and others.

.... Respondents

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ORDER:

Sri Venugopala Swamy Temple, Nemali village of Gampalagudem Mandal, Krishna District is a religious institution registered under Section 6(a) of A.P.Charitable and Hindu Religious Institutions and Endowments Act, 1987 (Endowments Act, for brevity). So as to appoint Board of Trustees for the temple, the Government issued Memo, dated 09.08.2006 requesting the Commissioner of Endowments – second respondent herein; to take action for issuance of notice in Form 1, Rule 4 of A.P.Charitable and Hindu Religious Institutions Endowments Appointment of Trustees Rules, 1997 (the Rules, for brevity). Accordingly notice, dated 17.08.2002 was issued. In response thereto, nineteen persons applied for being considered as Trustees of the temple. The petitioner was one among them. These applications were referred to the Assistant Commissioner, third respondent herein, who sent them for verification to Inspector, Endowments, Gannavaram, who sent report, dated 04.11.2006, after verifying the antecedents of the applications and reported that except three applications, namely, M/s.Kovvuri Vinaya Kumar, Samudrala Satyanarayana (petitioner herein) and Kurakula Venkata Krishna, there are no disqualifications as laid down in Section 19 of the Endowments Act. Insofar as the petitioner is concerned, the Inspector of Endowments reported that he is disqualified

as he is working as an employee in a Cooperative Bank. After receiving the report from the Assistant Commissioner, the Commissioner in turn sent a report by letter, dated 23.12.2006 to the Government for necessary action for constitution of Board of Trustees for Sri Venugopala Swamy Temple. Aggrieved by the same, the present writ petition is filed seeking a writ of Mandamus declaring the action of the respondents disqualifying the petitioner as illegal and arbitrary.

Learned counsel for the petitioner placed strong reliance on Section 19 of the Endowments Act and submits that an employee of a Cooperative Bank does not incur any disqualification and therefore, the Inspector of Endowments, the Assistant Commissioner and the Commissioner were in error in submitting a report to the Government to the effect that the petitioner is disqualified. **Opposing** the writ petition, learned Assistant Government Pleader submits that when the report was submitted by the Assistant Commissioner to the Commissioner, which is similar to the report now submitted by the Commissioner to the Government, the petitioner filed W.P.No26499 of 2006 and this Court dismissed the same. According to the learned Assistant Government Pleader, the order of this Court, dated 20.12.2006 covers the controversy in this writ petition also.

There is no dispute that the Government has not yet passed any orders appointing Board of Trustees and the report of second respondent, dated 23.12.2006 is under consideration. This was precisely the issue before this Court in W.P.No.26499 of 2006. The only difference was that the communication, dated 12.11.2006 sent by the third respondent to the second respondent, the subject matter of the said writ petition. Dealing with the same, this Court came to the conclusion that the writ petition is premature and the petitioner should assail any order only after the constitution of Board of Trustees. The relevant observations made therein are as under.

> The communication dated 12.11.2006 addressed by the second respondent to the first respondent is a mere commendation. The second respondent has merely forwarded the third respondent's report dated 04.11.2006 which was drawn up (by the third respondent) pursuant to the directions of the first respondent calling for verification of antecedents of applicants for trusteeship. The first respondent is stated to be the competent authority for appointing trustees. The first respondent is also the administrative head of the Endowments Department. There is no warrant for assuming that the first respondent will act to the dictation of the second respondent. The first respondent, the competent authority, is bound to independently take a call on each of the applicants for trusteeship and consider whether each is qualified in accordance with the provisions of Section 19 of the Act. The petitioner can have a grievance only if he is not considered for appointment as a trustee to the Temple on an

irrational or impermissible ground and that too only after the Board of Trustees is appointed.

In the considered opinion of this Court, the observations made hereinabove squarely apply to the present case also. At every stage of the official correspondence among the hierarchy of officials before the ultimate authority appoints the Board of Trustees, the petitioner cannot repeatedly file writ petitions almost with the similar cause of action. Admittedly, no orders have been passed and the first respondent being an independent authority constituted for the appointment of Board of Trustees under Section 15 read with Section 17 of the Endowments Act should have to take an independent decision before considering the cases of all the nineteen applicants, who sent their applications pursuant to the notice, dated 17.08.2006 issued by the Commissioner of Endowments. If so advised, the petitioner may approach the Government and submit a representation. In this writ petition, no relief can be granted as the writ petition is premature.

The writ petition, with the above observations, is accordingly dismissed. No costs.

(V.V.S.RAO,J)

25.01.2007.
pln

Note: CC by 29.01.2007.
(By order)
pln